

16th December 1954]

SRI S. RAMALINGAM :—“ மிஸ்டர் ஸ்பீக்கர் ஸார், on a point of order. இன்று non-official தினத்தில் ஒரு அஜென்டா எங்கள் கையில் கொடுக்கப்பட்டிருக்கிறது. அதுவும் நேற்று நடந்த பாலட் ரிசல்ட் பிரகாரம் இருக்கவேண்டியதாக இருக்க அதில் ஒரு புதிய விஷயமாகிய கிரியர்ஸ் ப்ராஜெக்டை (தீர்மானத்தில் இரண்டாவது ஐட்டம்) சேர்த்திருக்கிறார்கள். அதன் விவரம் புரியவில்லை.”

MR. SPEAKER :—“ அது என்னவென்றால், யாராவது ஒரு மெம்பர் ஒரு தீர்மானத்தை எடுத்துக்கொள்ள வேண்டுமென்று அதைக் கொண்டுவந்து அதற்கு மந்திரி அவர்கள் பதில் சொல்வதற்குத்தயாராக இருந்து அதைக்கொண்டு வருவதற்கு என்னை பர்மிஷன் கேட்டால் அதன்படி பர்மிஷன் கொடுப்பதற்கு எனக்கு விதிகளின்படி அதிகாரம் இருக்கிறது. அதன்படிதான் பர்மிஷன் கொடுத்து அதையும் இன்று அஜென்டாவில் சேர்த்திருக்கிறது.”

SRI A. RATNAM :—“ ஸார், on a point of information. திருநெல்வேலி சம்பந்தமாக கேள்வி”

MR. SPEAKER :—“ நீங்கள் ஏதாகிலும் information சொல்லவேண்டும் என்றால் நீங்கள் முதலில் என்னுடைய சேம்பரில் சொல்லவேண்டும். பிறகு நான் அதைப்பற்றி மந்திரியைக் கேட்டு அதற்கு பதில் சொல்வதற்கு தயாராக இருப்பேன். இந்த மாதிரி திடீரென்று விஷயத்தை இங்கு கேட்பது ரூலுக்கு விரோதமானது.

“ The hon. Member can come to my chamber.”

IV.—NON-OFFICIAL BUSINESS.

A Bills.

(1) THE MADRAS MARUMAKKATTAYAM (AMENDMENT) BILL, 1954
(L.A. BILL NO. 16 OF 1954).

SRI M. NARAYANA KURUP :—“ Mr. Speaker, Sir, I move—
‘ That the Madras Marumakkattayam (Amendment) Bill, 1954 (L.A. Bill No. 16 of 1954), be taken into consideration.’ ”

SRI K. T. SREEDHARAN :—“ I second it, Sir.”

MR. SPEAKER :—“ Motion moved—

‘ That the Madras Marumakkattayam (Amendment) Bill, 1954 (L.A. Bill No. 16 of 1954), be taken into consideration.’ ”

SRI T. C. NARAYANAN NAMBIAR :—“ Sir, I move—

‘ That the Madras Marumakkattayam (Amendment) Bill, 1954, be referred to the Select Committee.’ ”

SRI S. RAMALINGAM :—“ I second it, Sir.”

MR. SPEAKER :—“ Motion moved—

‘ That the Madras Marumakkattayam (Amendment) Bill, 1954, be referred to the Select Committee.’

Now both the Motion and the amendment are before the House for discussion.”

* **SRI M. NARAYANA KURUP** :—“ Mr. Speaker, Sir, this is a simple Bill which seeks to amend the Madras Marumakkattayam Act (Act XXII of 1933) in its relation to partition. Expressed in

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one sentence, the object of the Bill is to substitute the individual partition in place of the *tavazhi* partition. The House must know that before the Marumakkattayam Act of 1933 was passed the Marumakkattayam families of Malabar had no legal right to compulsory partition though there might be hundred members in a family, unless they unanimously consent to partition, one member of the family can put a block to the desire of 99 members of the family. The real remedy for the mismanagement of the *karnavan* lies in the provision for a junior member, *anandaravan*, to go to the court and file a suit for the removal of the *karnavan* and get redress. Sir, it has been found that a suit for the removal of the *karnavan* is a laborious and costly process which no ordinary *anandaravan* can go through. Moreover, it very often did not have the desired effect for by that he can remove only the then *karnavan* and as a matter of course, the senior male member, who might be as bad or worse than the existing *karnavan*, automatically steps into his place. Inasmuch as this led to some eminent judges stating that a suit for removal of a *karnavan* very often ended in substituting an empty-leech in the place of the full-leech. Therefore, there was a general desire growing that the right to partition must be legally enforced. However, there were also people who wanted to maintain the existing customs and, we all know that customs die very hard. Therefore, when there was this conflict between the desire for partition and the desire, I should say, of a minority to maintain the existing condition, a *via media* was struck, as a result of which the Act XXII of 1933 was passed. It allowed the right to partition under certain restricted conditions. I shall explain my point by an illustration. The law allowed partition only by the consent of the majority of members in a *tavazhi*. Then another restriction was also imposed. No *tavazhi* could claim its share from the tarwad if there was a common ancestress living. Her consent also was to be obtained. I shall put my illustration in this way. Suppose there is 'X' the common ancestress. She has a son 'S' and a daughter 'D' and that daughter has three children, 'C to C-3'. There we have a family of six persons. If that daughter '*tavazhi*' wanted partition—'*tavazhi*' means the mother-line, that is her three children and herself constitute the '*tavazhi*'—two conditions have to be fulfilled. The majority members, that is three members of the '*tavazhi*' must consent. Even then there is another hurdle 'X' is the ancestress and her consent also has to be obtained for this '*tavazhi*' to get partition. Anybody who knows the management system of the Marumakkattayam family can understand the difficulties implied in this system. Here we have a '*tavazhi*' of six members and 'S' the son is in charge of management. If a partition is effected, 'D' and her children, that is four members, will get four shares, the son, the manager, will get only one-sixth of the whole property and the mother also will get one-sixth of it. Therefore, it is in the interests of the manager to see that he continues to be in charge of the management as long as he can and very often the result is that he prevails upon the mother not to give her consent.

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“ Therefore, this system led to bitter feelings between members of the same family and even between issues of the same mother so that the mother was torn in her loyalty between her own children. There have been criminal cases and even murders because the required consent in certain cases could not be obtained. Of course, the Act itself was passed in 1933 and we have advanced far in these twenty years. The feeling among the people who are affected by the law has always been consistently in favour of individual partition so that trouble may cease. Courts have also held that though the member cannot individually claim partition the law is sought to be put on a par with the Hindu Law and, therefore, his right to the property can be attached and sold. This Bill seeks nothing new but only gives legal recognition to the urge in the large and overwhelming majority of the people who are affected by the law, for their claim to individual partition. I submit that this is a non-controversial measure and I condemned this to the House for its unanimous acceptance.”

12-10
p.m.

* SRI T. C. NARAYANAN NAMBIAR :—“ Mr. Speaker, Sir, while welcoming the introduction of this Bill generally, I want that some of the other sections of the Marumakkattayam Act also should be examined, because an urgent examination is highly necessary. The amendment of section 38 of the Act proposed by the hon. Member Mr. Narayana Kurup is quite welcome because in the existing Act, it is said that a tavazhi can claim partition only with the written consent of the ancestral mother. Otherwise, no member of the tarwad can get his property partitioned. I shall give an illustration to show how adversely people in Malabar are affected by the provisions of the Act. Suppose I belong to a tarwad of 47 members and have got my grandmother, that is, my mother's mother. There are four daughters to that grandmother. If the karnavan is bent upon alienating the whole property of the tarwad in favour of the sons and daughters of his, he can freely do so. If I want my share of the tarwad, that is, if I want that the tarwad should be partitioned, I should get the written consent of the ancestral mother, that is, grandmother, who is taken and kept in the custody of the karnavan, that is, uncle. Naturally, our mothers love their sons more and that has been our experience. So, the grandmother kept under lock and key—if I may say so—by the karnavan, is not in a position to be seen by the other members of the tarwad so that the entire property is looted by him. Every member of a family has got right to a share of the family's common property. In the olden days, the tarwad was looked after by the karnavan and everything was going on amicably. But we see what happens nowadays. Once a man gets married, he goes away from the family with his wife and children without minding the miseries and sufferings of his ‘ anandaravans ’, that is, nephews. Therefore, I welcome this new provision.

“ With regard to the second part of the amendment, I had certain doubts and I had a discussion with the hon. Mover of this

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Bill Mr. Narayana Kurup on this provision. He explained the provision in detail and if what he said is the object, nobody need object to this. I shall illustrate this point also. Suppose I am married and have five children. When I get a share of my property in the tarwad, there is no right for my children over that share of the property. Suppose a person marries for a second time on the death of his first wife and through the first wife he has three or four children. Unless the father himself wants, these children cannot have a right over their father's property. Suppose he has children through the second wife also. He can lease all his property in favour of these children. This is quite unnatural and illegal. Once a man gets some property, his children should have a right over his share got from the tarwad.

"Therefore, Sir, I feel we need not be hasty about this Bill and I do not think that it is so very necessary that we should enact it immediately. Also, I want that certain other sections of the Act should be amended. I submit that the Bill be referred to a Select Committee. There are some 17 impartible tarwads—royal families, Raja families—in Malabar. The properties of these cannot be partitioned. One of the members of these Raja families is here, the hon. Mr. Sankaravarma Raja. With very great respect and reverence to those families, let me observe that many of the members of them are actually starving. Here also, unless two-thirds of the members register the property as partible, it cannot be partitioned. It is a very well-known fact that, most of the junior members including women in these families are starving because the karnavan, that is, the senior Raja would take away everything, lease and alienate it in any manner he likes. This Act has got to be amended since times have changed and are changing. It is high time that such reactionary pieces of legislation were amended in the light of the revolutionary changes taking place in our country."

12-17
p.m.

* SRI R. KRISHNAN :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, ഈ ബില്ലിന് ഏറെയും അത്യാവശ്യമാണ്. അടിയന്തിരവുമാണ്. യഥാർത്ഥത്തിൽ ഈ ബില്ലിന്റേതൊക്കെ വന്നിട്ടുള്ള വകുപ്പുകൾ മാത്രം ഭേദഗതി ചെയ്യാൽ ഉദ്ദേശിക്കുന്ന ഗുണം കിട്ടുമോ എന്നുള്ളതാണ് പ്രശ്നം. മലബാറിലാണെങ്കിൽ മൂന്നരും നാലരും അംഗങ്ങളുള്ള തറവാടുകൾ ഉണ്ട്. പല തറവാടുകൾക്കും വളരെയധികം സ്വത്തുക്കളുണ്ട്. ചില കാരണവന്മാരടക്കം ഉൾക്കൊണ്ടും ധൂതും ഒരുവശത്തു നടക്കുമ്പോൾ ഉപജീവനത്തിനുപോലും നിവൃത്തിയില്ലാതെ കുടുംബാംഗങ്ങൾ പട്ടിണി കിടന്നു നരകിക്കുന്ന കാഴ്ചയാണ് നാം അവിടെ കാണുന്നത്. കോടതികളിൽ വ്യവഹാരത്തിനുവേണ്ടി കുടുംബസ്വത്തുക്കൾ വളരെയധികം നശിപ്പിക്കുന്നുണ്ട്. ചുരുക്കം അംഗങ്ങളും വളരെയധികം സ്വത്തുക്കളുമുള്ള ചില തറവാടുകളുമുണ്ട്. അതായത്, ഒരു എട്ടോ പത്തോ ആളുകളുണ്ടായിരിക്കും. നാലഞ്ചുപേരും ഉറപ്പിക ആദായമുള്ള തറവാട്ടു സ്വത്തുക്കളുണ്ടായിരിക്കും. മറ്റു ചില തറവാടുകളിൽ സ്വത്തുക്കളുണ്ടായിരിക്കും. അംഗങ്ങളും ധാരാളമുണ്ടായിരിക്കും. പലപ്പോഴും ഇമ്മാതിരി തറവാടുകളിൽ കാരണവനും കാരണവനെ പററിനില്ക്കുന്ന മറ്റു ചില അംഗങ്ങളുമായിട്ട് സ്വത്തു മുഴുവൻ അനുഭവിക്കുക. അനന്തരവന്മാർ യാതൊരു ഗതിയുമില്ലാതെ തെങ്ങിത്തിരിയുക, അതാണ് അനുഭവം. ആ ദുഃസ്ഥിതിക്കു ഒരു പരിഹാരം കാണാനാണ് ഈ ബില്ലിന് ഉദ്ദേശിക്കപ്പെട്ടിട്ടുള്ളത്. ഒരു കുടുംബത്തിലെ കാരോ വ്യക്തിക്കും കുടുംബസ്വത്തുക്കളുടെ കരോഹരി വാങ്ങിക്കൊണ്ട് പിരിഞ്ഞു പോകുന്നതിനുള്ള അവകാശം ഉണ്ടായിരിക്കണമെന്നുള്ളതാണ് ഈ ബില്ലിന്റെ ഉദ്ദേശം. ഈ

16th December 1954] [Sri R. Krishnan]

ഉദ്ദേശം തികച്ചും സാധാരണമാണ്. അതോടപ്പുറത്തു മലബാറിലെ മരുമക്കത്തായം തറവാടുകളിലെ ആളുകളുടെ അഭിപ്രായംകൂടി മനസ്സിലാക്കിക്കൊണ്ട് തികച്ചും തൃപ്തികരമായ ഒരു നിയമമുണ്ടാക്കാൻ സൗകര്യപ്പെടണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ് ഈ ബില്ലു ഒരു സെലക്ട് കമ്മിറ്റിക്കയയ്ക്കണമെന്ന് ആരെ ആവശ്യപ്പെട്ടിട്ടുള്ളത്. കാലതാമസം വരുത്താതെതന്നെ സെലക്ട് കമ്മിറ്റി ഇതു പരിശോധിച്ച് അടുത്ത സഭോദ്യമനത്തിൽ സമുക്ത പാസ്സാക്കാൻ സാധിക്കുന്നതെന്നാണ് എന്റെ ഉദ്ദേശം. അതുകൊണ്ട് സെലക്ട് കമ്മിറ്റിക്കയയ്ക്കണമെന്ന ഭേദഗതിയെ ഞാൻ പിന്തുടരുന്നു."

* SRI N. GOPALA MENON :—"We who come from 12-20
Malabar form a small *tavazhi* in this Assembly which may be P.M.
regarded as our tarwad. I am anxious that those who belong to this small *tavazhi* should not have divergent opinions but should come to a common conclusion. Therefore I support Mr. Narayanan Nambiar's motion to refer this matter to a Select Committee. It does not cast any reflection either on the lucidity with which Mr. Narayana Kurup expounded this Bill nor has this anything to do with his skilful draftsmanship. But I think in a Bill like this which concerns the whole of Malabar, all of whom we do not represent here because all classes and interests of Malabar are not represented in this Assembly, it is very desirable that there should be a joint select committee consisting not only of members of this House but also the Members of the Legislative Council. After all this is a small bill which really proposes the right to individual partition being given. To that extent there is unanimity of opinion. Everybody is agreed that there should be a bill like this. But all the same it requires scrutiny. Malabar is different from other districts in many ways. Biologists say that the fauna and flora of Malabar are very different. It is something like an oasis in a wilderness. In Malabar we have the matrilineal succession whereas in the rest of India and I think even in the rest of the world, except one or two places in Europe, there is the succession through the father. Whatever may be the reasons for it we have this system of family law. In modern times everybody wants to have his share of the properties to be separated from the family property. Originally when the Marumakkattayam Bill was passed, the mover of that Bill said that time will come when there will be an agitation for individual partition. There is really now an agitation for individual partition. As a matter of fact in the partition of a tarwad in Malabar people provide for individual partition. The advantage in getting individual partition is that the property becomes the sole property of the person who gets separated and he could give away that property to his wife and children. That is the dominating motive. In these times it is difficult for any person to say that you should resist individual partition being granted. Modern times are such that the family members demand that properties should be separated. Though the principle of the Bill is good it is important that it should have the acceptance of not only every member in this House but the public of Malabar outside. That is why I say that the Bill should undergo some scrutiny from persons who would look at the various aspects of it and not pass it immediately into law. Therefore I support the motion of

[Sri N. Gopala Menon] [16th December 1954]

Mr. Narayanan Nambiar to send this Bill to a Select Committee. As I said we form a small tavazhi in this Assembly and I do hope and if I have got any powers of persuasion I hope Mr. Narayana Kurup will agree to this matter being referred to a Select Committee."

* SRI K. P. KUTTIKRISHNAN NAIR :—" I rise, Mr. Speaker, to support Sri T. C. Narayanan Nambiar's amendment. You know it is with reference to our personal law that this amendment is now before us. In respect of guardianship and such allied matters, the other provisions in the Marumakkattayam Act has to be amended in consonance with this present amending Bill. It may look as a minor amendment on the face of it. But there are some provisions regarding guardianship, vesting of property in their hands—which have got to be considered deeply by the House. As such this should not be expedited but we should refer it to a Select Committee. I would also support Mr. Gopala Menon's wish that the Select Committee should be a Joint Select Committee of both Houses. You know, Sir, that sufficient criticism on the amendment from vested interests in Malabar is not forthcoming and as such it requires a certain amount of propaganda and also taking of evidences in finalising what shape this amendment is to take. Therefore I request the hon. Mover, and I am sure Mr. Narayana Kurup will accede to Mr. Narayanan Nambiar's amendment and agree with it because it is absolutely necessary in the circumstances in which we are now moving. With these words, I thank you, Mr. Speaker, for giving me this opportunity to speak on this occasion."

* SRI E. K. SANKARA VARMA RAJA :—" I am also supporting the amendment brought forward by Mr. Narayanan Nambiar. Simply because the old Act of 1933 was passed twenty-two years ago, many changes have to be brought forward. Since most of the people are aware of what is now taking place in a tarwad and a tavazhi and because of the separatist mentality of the people of Malabar, everyone of us would like to see that something is got for our own use. The Marumakkattayam system was good in good olden days but at present the karnavans are managing the tavazhi without looking to the interests of the anandaravans. This must have to be changed. So I would request that according to the change of times these Acts will have to be changed for the benefit of the present generation.

" I also come under the Marumakkattayam tarwad and as such I have to offer my opinions on the subject. As per the new Act unless a two-third majority is got, the property cannot be partitioned. Litigation drags on for several years and by way of fees for the lawyers much of the money that constitutes the property goes out. I would also request that some facilities are given to the junior members of the tarwad when partition takes place. I would also request that partitioning of property should be finished within a particular time to be stipulated by Government. At the instance

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of Government, an arbitrator may be appointed to see that the property is partitioned within a stipulated time so that there need not be litigation and too much money being spent on it by the parties concerned. I know several families wherein litigation has dragged on for twenty to twenty-five years over partitioning of property and wherein too much of money has been spent on litigation alone, with the result a major portion of the property has been consumed on litigation alone. So, an easy process must be found out by the Government to see that some facility is given to the junior members of the tarwad and that the family properties must be partitioned in a stipulated time with arbitrators appointed by the Government and so on. I am afraid it may be out of place if I say that the sthanams must also be partitioned. But I understand that Government are considering the partition of sthanams also among the members of the tarwad, so that if they get those properties, they can keep whatever lands they want and lease out the others and thus they will also help to solve the tenancy question of the whole of Malabar. Simply because the partitioned property can be kept by them to the extent they want and which they can cultivate and leave out the other to the tenants, it will be benefited by all.

12-30
p.m.]

“As I said before the original Act was passed some years before and therefore many more amendments may be made to that Act. I would request my hon. Friend Mr. Kurup to see that this may be sent to the Select Committee so that we can discuss all those things in the Committee and try to find a solution to this problem by making more amendments to the old Act for partitioning the tarwad.”

* SRI P. KUNHIRAMA KIDAV :—“റിസ്റ്റർഡ് പ്രീക്ഷർ, സർ, 1932 ലെ മദ്രാസ് മരുമക്കത്തായം ആക്ട് പാസ്സായിക്കഴിഞ്ഞപ്പോൾ തന്നെ ആ നിയമം എത്ര ഉദ്ദേശത്തോടുകൂടിയാണോ പാസ്സാക്കിയത് ആ ഉദ്ദേശം നിറവേറ്റുന്നില്ല എന്ന മലബാറിലെ മരുമക്കത്തായ കുടുംബങ്ങളിലെ അംഗങ്ങൾക്കു പ്രത്യക്ഷത്തിൽ അനുഭവപ്പെട്ടിരുന്നു. ഒരു മരുമക്കത്തായ കുടുംബത്തിലെ കാരോ അംഗത്തിനും സ്വന്തം വീതിച്ചുകിട്ടുക എന്ന ഉത്തരായിരുന്നു ആ നിയമം ഉണ്ടാക്കിയവരുടെ ഉദ്ദേശമെങ്കിൽ അതു കട്ടംതന്നെ നില്ക്കുകയുണ്ടായിരുന്നു. ആ നിയമമനുസരിച്ച് ഒരു കുടുംബത്തിൽ അമ്മ ജീവിച്ചിരിക്കുന്നതോളം കാലം മക്കൾക്ക് ഭാഗം ആവശ്യപ്പെടാനുള്ള അവകാശം കൊടുത്തിട്ടില്ല. ആ നിയമം നോക്കുമ്പോൾ ആ നിയമം ഒരു ഭേദഗതി അർഹിക്കുന്നുണ്ടെന്നുള്ളത് തീർച്ചയാണ്. ഒരു നറവാട്ടിലെ കാരോ അംഗത്തിനും പ്രത്യേകം ഭാഗം ആവശ്യപ്പെടാനുള്ള സ്വാതന്ത്ര്യം അനുവദിച്ചുകൊടുക്കേണ്ട ഒരു ബില്ലാണ് ഇപ്പോൾ സഭയിലവതരിപ്പിച്ചിരിക്കുന്നത്. ഈ ബില്ലു് പാസ്സാക്കിയാൽ എത്രയോ മരുമക്കത്തായ നറവാട്ടുകളിലെ എത്രയോ അംഗങ്ങൾക്കും അനുഗ്രഹമായിത്തീരുന്നതാണ്; അക്കാരണത്താൽ ഇതു് അടിയന്തിരമായി പാസ്സാക്കേണ്ട ഒരു നിയമവുമാണ്. ഇതു് ഒരു സെലക്ട് കമ്മിറ്റിക്കു് അയക്കേണ്ട ആവശ്യംതന്നെ ഉണ്ടെന്നു് ഭോന്നുന്നില്ല. സെലക്ട് കമ്മിറ്റിക്ക് അയയ്ക്കുകയാണെങ്കിൽ തന്നെയും എത്രയും വേഗത്തിൽ സെലക്ട് കമ്മിറ്റി റിപ്പോർട്ട് വരുത്തി ഇതു് നിയമമാക്കിത്തീർക്കേണ്ടതാണെന്നു് അഭിപ്രായപ്പെട്ടുകൊണ്ടും ബില്ലിനെ ശക്തിയായി പിന്താങ്ങിക്കൊണ്ടും ഞാൻ എന്റെ പ്രസംഗം അവസാനിപ്പിച്ചുകൊള്ളുന്നു.”

* SRI. A. APPU :—“Sir, I do not belong to a Marumakkattayam family, but I belong to a Makkattayam family. But I know something about Marumakkattayam families, and therefore I feel

[Sri A. Appu] [16th December 1954]

that the amendment of the hon. Member Sri Kurup is a good one. I agree with him. But I know very many instances in big families where the karnavans do not agree to have individual divisions where they have extensive properties and enjoyed by karnavans. Therefore, I quite agree with Sri Gopala Menon, Sri Sankara Varma Raja, Sri Kutti Krishnan Nair and others that we should have further amendments to this Bill. I would therefore suggest that this Bill be referred to a Joint Select Committee for careful consideration and for bringing forward all the necessary amendments to this Bill. I have nothing more to say."

* DR. K. B. MENON :—" Mr. Speaker, Sir, the Marumakkattayam Tarvad family is one of the most ancient institutions in Malabar and is also an institution that has contributed to the confusion in the minds of the people outside about Malabar. Marumakkattayam system or matriarchal system has certainly certain advantages over the patriarchal system and Malabar probably is the only place where that system of inheritance is prevalent. (Interruption from Sri Gopala Menon : 'It is in South Kanara also'.) Yes, in South Kanara also. It suited the old village, the static village system with its static economic and social institutions. But with the advent of the Industrial Revolution and the changes that came in its wake, the village has undergone a complete change and consequently, the old Marumakkattayam family also had to undergo changes. People began to move out and the members of those large families—the families were often of a couple of hundred members—when they went out seeking jobs elsewhere leaving their villages, they began to realize that they could not get those benefits from the family property which the local members enjoyed. There was therefore a demand from those members who migrated from the village for a division of the family property. When this principle of the division of the family property was accepted, there was no reason why that division should be on the basis of tavazhi and why the division should not be allowed to individuals.

" This Bill that is proposed by the hon. Member introduces or permits that division among the individuals which will lead further to the disintegration of the family. I do not think it will materially affect the matriarchal system. The compulsory registration of marriage and other changes that are gradually coming over in Malabar is watering down the matriarchal system and I believe Malabar will have a matriarchal-cum-patriarchal family system in future. I accept the Bill for various reasons. Individuals have a necessity and a desire for partition. There is need for division very often when the members of even the tavazhi become many. A karnavan of the tarvad may not be fair, may not be efficient, may be partial to his sons in preference to his nephews, may work on the sentiments of the senior women members of the family. A family may not have resources enough to go on agreeing for a division even in deserving cases where a partition is called for. The members may not be able to effect a partition. A

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Bill of this kind will make that partition more easy and I along with other hon. Members who hail from Malabar, welcome this Bill. I am quite sure that the hon. Member who introduced the Bill will have no objection to refer the Bill to a Select Committee and I hope that the Committee will not delay it beyond the necessary time."

SRI S. SWAYAMPRAKASAM :—" Mr. Speaker, Sir, the Bill relates to a particular area of this State, which has got peculiar features and hon. Members coming from that area feel the necessity for such a Bill. They also feel that this Bill should be referred to a Select Committee. They are just the persons who can understand and discuss the matters. So I wholeheartedly support the move to refer the Bill to a Select Committee."

SRI P. RAMAMURTHI :—" Mr. Speaker, Sir, the discussion that is taking place over this particular Bill brings out very sharply the peculiar conditions inside our country where we are able to find the society at different stages of development. Here, in Malabar, in the 20th century, we have got the matriarchal system. In some other parts of the country, we have got the tribal system. For example, in some parts of the Central Provinces, the tribal system is prevalent. That is a clear indication of how uneven has been the development of our society. So it is not a question of Malabar Members alone being interested. All of us are equally interested in this particular question because we have got to look at the whole problem from a particular angle, namely, whether the particular Bill under discussion corresponds to the wishes of the entire country so that the country as a whole may develop towards a higher system of society. Any society, where certain ancient forms of relations, which no longer correspond to the actual realities of living conditions, have ceased to exist, will have to move forward. It is from that point of view I submit that all the hon. Members of this House are interested in this question.

" Looking at the problem from this angle, we find that somehow or other, in Malabar, this matriarchal system has been in vogue. It is not as if this system is peculiar to Malabar alone. If we look at the history of the whole country and the history of the world, there was a time when this system was in vogue throughout the world. At a certain stage of development of human society when production did not develop tremendously, obviously the matriarchal system was the most convenient system wherein the fruits of the toil of all the members of the family were divided inside the family. That particular system was in vogue for a long time, but later, when the productive forces had developed, it proved to be unequal to the specific relations of production in that particular society and the matriarchal system gave place to the patriarchal system which is commonly in vogue in various parts of the country. But in Malabar, things have developed in such a way that even after production relations have developed and even after they were able to make a sort of combination between the matriarchal system of property inheritance and the new system

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of production, the feudal relations had come into vogue. But so long as, either in Malabar or in any other part of the country, production was primarily intended for that particular society, the matriarchal system was in vogue; so long as what was produced was intended mainly for the purpose of being used inside the village and so long as the production inside the village was not utilized for the purpose of selling it in the open market and money economy had not come into vogue, this matriarchal system did not give rise to quarrels inside that particular society. But the moment money economy was substituted in the place of the ancient self-sufficient system of village economy, this particular system has come into tremendous clash. The head of the family, namely, the *karnavan*, out of the produce of the tarwad property, was able to sell the surplus in the market and got the money and he appropriated the money for his own enjoyment. That was why new systems of production relations have come into force. Because of this greed of the *karnavan*, the equilibrium, that was established inside the particular system, had been tremendously disturbed. The head of the family wants to grab as much as possible by virtue of the fact that the other members of the family cannot claim a share in the property. They are completely at the mercy of the *karnavan* to-day and this position has got to be changed.

“ I am not going into the question of property rights. But I am only pointing out that this particular system leads to a position where the head of the family (the *karnavan*) is able to hold the entire members of the family to ransom. Therefore, something must be done. Of course, a series of amendments have since been passed to the Marumakkattayam Act, but in spite of that there is trouble still and under the Act that is now in force, it is not every member of the tarwad that has got a right to a share of the property. It is only the matriarchal descendant that has got a right to a share. The amending Bill of the hon. Member Sri Narayana Kurup tries to put the whole thing on terms of equality. Whether a particular member belongs to a *tavazhi* or not is immaterial. So long as he is a member of a *tarwad*, he must get an equal share in the property. This is one thing which the hon. Member seeks to achieve through this Bill. To the extent to which it makes no distinction between a *tavazhi* and non-*tavazhi*, to that extent it aims at equality and, therefore, this Bill must be supported. At the same time, I would like to point out that this amending Bill is very limited in its scope. After all, if we leave out the bigger *tarwads* which do not come under the scope of this Bill, the other *tarwads* are all very minor ones. Generally, a member of a *tarwad* may get from Rs. 200 to Rs. 500. There will be only very few cases where a member of the *tarwad* is able to get Rs. 10,000 or more. This amending Bill affects the smaller *tarwads* and not the impartible *tarwads*. Unfortunately, we have got a special provision in the existing Act with regard to impartible *tarwads* which says that unless two-thirds of the major members of a *tarwad* agree to its being partitioned, it shall not be partitioned. Every member of a *tarwad* is left to the mercy of his

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being able to get the consent of not less than two-thirds of the major members of that *tarwad*. Obviously this position cannot be accepted to-day. Every member of a *tarwad*, be it a big *tarwad* of a small *tarwad*, should have the right to get his share of the *tarwad* property so that he may be free from the vexatious dealings of the *karnavan*. For this purpose, it is necessary to amend not only sections 38 to 41, but also the sections which relate to impartible estates. There should be no distinction between a partible and an impartible estate; what applies to partible estates should apply also to impartible estates. These properties are in the possession of royal families. To-day these royal families do not deserve to have any prerogatives other than the prerogatives enjoyed by the common people. I suggest that the Select Committee should go into the question of amending not only sections 38 to 41 but also the sections relating to impartible estates. By this suggestion I am not at all enlarging the scope of the Bill.

“ We should not think in terms of having a Joint Select Committee. That means that this Bill is before the other House also simultaneously.”

MR. SPEAKER :—“ It will not be before the other House simultaneously. If the Assembly passes a motion that the Bill be referred to a Joint Select Committee and elects its members, the Council will be asked to give its concurrence with the motion and elect its members.”

SRI P. RAMAMURTHI :—“ If the reference to a Joint Select Committee will not delay the consideration of the Bill beyond the time that a single-House Select Committee will take, then the Bill may be straightaway referred to a Joint Select Committee. This matter may be left to be decided by the Malabar members.”

* DR. K. B. MENON :—“ Sir, on the point raised by the hon. Leader of the Opposition, I wish to say that whether the matriarchal system is superior to patriarchal system or vice versa is a very debatable question.”

SRI P. RAMAMURTHI :—“ I never talked about the superiority or inferiority of any of the systems. All I said was that these systems were evolved in the context of the then existing production relations.”

* THE HON. SRI C. SUBRAMANIAM :—“ Sir, I do not claim to be as good an expert as the hon. Leader of the Opposition with regard to the Malabar customs and habits. I have absolutely no doubt that even the Members sitting behind him may not quite agree with him that the social structure of Malabar is a little bit primitive compared with the systems prevailing in the other parts of the country.”

SRI P. RAMAMURTHI :—“ They will agree with me.”

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THE HON. SRI C. SUBRAMANIAM:—“ I know they will stomach anything when it comes from their leader.”

* SRI T. C. NARAYANAN NAMBIAR:—“ The contention of the Hon. Finance Minister is not correct. We, the Communists, work in a democratic way. The rank and file members will not accept anything unless we are convinced about the correctness of it. Besides, no leader will impose things which will not be acceptable to his followers. Things referred to by the Hon. Minister are not done in the Communist Party but elsewhere.”

* THE HON. SRI C. SUBRAMANIAM:—“ If they say that the social structure of Malabar is primitive and requires change, it is a matter for them to decide. I do not want to quarrel about it. My impression is, as was pointed out by Dr. K. B. Menon, that the matriarchal system and the patriarchal system have each got its own advantages and virtues. According to the conditions prevailing in each part of the country, a particular social structure developed there. Bearing this fact in mind, we will have to take a step forward if any change is necessary in the present conditions.

“ I find from the speeches made by the various hon. Members coming from Malabar that they welcome the idea behind this Bill. They only add that this Bill requires further scrutiny by a Select Committee. Whether the Select Committee should be a Select Committee of this House or a Joint Select Committee is a matter to be decided by the Mover of the Bill. Even if there is to be a Joint Select Committee, there will be no procedural difficulty. If this House gives a direction that there should be a Joint Select Committee, the Leader of the House in the Council will move a motion for getting the concurrence of the Council. If this House wants to associate the Members of the other House also, I will not stand in the way. I request the Mover of the motion to accept the amendment moved by Sri T. C. Narayanan Nambiar. The Mover of the motion will give his idea as to whether it should be a Select Committee of this House or a Joint Select Committee.”

* SRI M. NARAYANA KURUP:—“ Sir, I am deeply thankful to hon. Members who have given very valuable suggestions and to the Hon. the Leader of the House for the sympathetic attitude he took and the assurance he gave that there will be no difficulty in the further progress of this Bill whether it be referred to a Select Committee of this House or a Joint Select Committee. As it has been suggested that the Bill may be referred to a Joint Select Committee, I have no objection to accept the suggestion.

“ Some hon. Members paid some compliments to me. I am conscious of my own limitations. I had been a lawyer fourteen years ago and I have forgotten what little of law I knew. This is the first piece of legislation in which I am dabbling and I welcome suggestions from, and scrutiny by, legal experts. It is not my

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intention to make a law that will give rise to trouble afterwards. Of course, I am conscious that in spite of our best efforts and legal scrutiny, troubles may arise afterwards. But let it not be said that even in the initial stage the Bill was not subjected to legal scrutiny.

“ I do not want to speak about the opinion expressed by the hon. Leader of the Opposition. His speech only shows that in spite of my talk with him, he has not been able to grasp the subject and realise the danger involved in treading unfamiliar ground.

“ A suggestion was made that it is necessary to leave out the chapter relating to impartible estates. I thought that the wisest course was to follow the line of least resistance. I am sure there will be a volume of protest for inclusion of an amendment to that effect in this Bill. If there is a overwhelming desire on the part of the members of a tarwad, they themselves can apply to the Revenue Divisional Officer and get the registration as an impartible estate cancelled. There have been many such instances. By this I do not mean that the chapter should not be amended if there is a general desire. I thought it better to confine myself to this aspect of the question.

“ The hon. Member Sri E. K. Sankara Varma Raja said that Government arbitrators must be appointed to decide questions of partition. Of course, it goes far beyond the scope of the Bill. 1 p.m. We know, as a matter of fact, that partition suits in Courts are dragged on for years together. I know of one instance where it dragged on for twelve years and another where it dragged on for sixteen years. But that is a different matter. It involves questions not only of partition of marumakkattayam tarwad but also of other tarwads. Therefore, I would accept the suggestion for referring this Bill to a Joint Select Committee of both the Houses.”

MR. SPEAKER :—“ Let a motion for the purpose be moved formally and seconded.”

* SRI M. NARAYANA KURUP :—“ By way of amendment to my original motion with your permission, Sir, I move—

‘ That the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of 24 Members (16 Members from the Assembly and 8 Members from the Council) to consider the Madras Marumakkattayam (Amendment) Bill, 1954 (L.A. Bill No. 16 of 1954) and that the following Members of this House be selected to serve on such a Joint Select Committee :—

The Hon. Sri M. A. Manickavelu Naicker,

Sri T. C. Narayanan Nambiar,

Sri K. P. Gopalan,

[Sri M. Narayana Kurup]

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*Sri C. H. Kanaran,
Sri P. K. Gopalakrishnan,
Sri K. C. Gopalan Unni,
Sri M. Narayana Kurup,
Sri M. Narayana Nambiar,
Dr. K. B. Menon,
Sri V. Sankaranarayana Menon,
Sri V. R. Krishna Ayyar,
Sri M. Chadayan,
Sri E. K. Sankara Varma Raja,
Sri K. P. Kuttikrishnan Nair,
Sri N. Gopala Menon, and
Sri A. Appu.' "*

SRI S. RAMALINGAM :—" I second the motion, Sir."

* SRI T. C. NARAYANAN NAMBIAR :—" The Hon. the Mover of the motion has accepted my suggestion to refer the Bill to a Select Committee. It was suggested by the Government that it might be referred to a Joint Select Committee of both the Houses. In view of these, I beg leave to withdraw my amendment."

The following amendment of the hon. Member Sri T. C. Narayanan Nambiar was, by leave, withdrawn :—

" That the Madras Marumakkattayam (Amendment) Bill, 1954, be referred to a Select Committee."

* SRI K. PARTHASARATHY :—" Now that this is a Bill to amend a Madras Act, is it not necessary in view of the opinions expressed so far that the Joint Select Committee should be instructed to consider amendments even beyond the scope of the present Amending Bill? "

MR. SPEAKER :—" I cannot interfere."

THE HON. SRI C. SUBRAMANIAM :—" The Joint Select Committee can do whatever is necessary."

* SRI K. R. SAMBANDAM :—" கனம் சபாநாயகர் அவர்களே, கூட்டுப் பொறுக்குக் கமிட்டியில் தமிழ் அங்கத்தினர்களில் ஒருவராவது இருந்தால் நலமாக இருக்குமென்று நினைக்கிறேன்."

THE HON. SRI C. SUBRAMANIAM :—" ஸ்ரீ மாணிக்கவேலு நாயக்கர் இருக்கிறார். அவர் தமிழர் தான்."

SRI S. PANCHAKSHARAM :—" அவர் மந்திரியாயிற்றே ! "

* SRI K. R. SAMBANDAM :—" அங்கத்தினர்களில் ஒரு தமிழ் அங்கத்தினராவது இருக்கவேண்டுமென்பது என் வேண்டுகோள்."

MR. SPEAKER :—" ஸ்ரீ மாணிக்கவேலு நாயக்கர் சுத்தத் தமிழராயிற்றே." (சிரிப்பு.)

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MR. SPEAKER :—“ Now, I shall put the main motion to the vote of the House. The question is—

‘ That the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of 24 Members (16 Members from the Assembly and 8 Members from the Council) to consider the Madras Marumakkattayam (Amendment) Bill, 1954 (L.A. Bill No. 16 of 1954) and that the following Members of this House be selected to serve on such a Joint Select Committee :—

The Hon. Sri M. A. Manickavelu Naicker,
Sri T. C. Narayanan Nambiar,
Sri K. P. Gopalan,
Sri C. H. Kanaran,
Sri P. K. Gopalakrishnan,
Sri K. C. Gopalan Unni,
Sri M. Narayana Kurup,
Sri M. Narayana Nambiar,
Dr. K. B. Menon,
Sri V. Sankaranarayana Menon,
Sri V. R. Krishna Ayyar,
Sri M. Chadayan,
Sri E. K. Sankara Varma Raja,
Sri K. P. Kuttikrishnan Nair,
Sri N. Gopala Menon, and
Sri A. Appu.’ ”

The motion was put and carried.

(2) THE MADRAS INDEBTED AGRICULTURISTS (TEMPORARY RELIEF) AMENDMENT BILL, 1954 (L.A. BILL NO. 33 OF 1954).

SRI N. K. PALANISAMY :—“ Mr. Speaker, Sir, I move—

‘ That the Madras Indebted Agriculturists (Temporary Relief) Amendment Bill, 1954 (L.A. Bill No. 33 of 1954), be taken into consideration at once.’ ”

SRI S. RAMALINGAM :—“ I second the motion, Sir.”

MR. SPEAKER :—“ Motion moved—

‘ That the Madras Indebted Agriculturists (Temporary Relief) Amendment Bill, 1954 (L.A. Bill No. 33 of 1954), be taken into consideration at once.’ ”

* SRI N. K. PALANISAMY :—“ கனம் சபாநாயகர் அவர்களே, சபையிலே நான் பிரேரித்திருக்கும் மசோதாவைப்பற்றி பேசுவதற்கு முன்பாக கோயம்பத்தூர் ஜில்லா விவசாய சங்கத்தின் சார்பாக 8,500 பேர்களுக்கு மேல் கனம் முதல் மந்திரி அவர்களுக்குக் கையெழுத்திட்டு அனுப்பியுள்ள மகஜர் ஒன்றையும் இந்தச் சபையில் சமர்ப்பிக்கிறேன்.”

MR. SPEAKER :—“ நீங்கள் சபை விதிப்படி முதல் மந்திரி அவர்களுக்கு எழுதப்பட்ட மகஜர் ஒன்றை இந்தச் சபையில் சமர்ப்பிக்க முடியாது. சபை அங்கத்தினர்களுக்கே அட்ரஸ் செய்யப்பட்ட மகஜர்களைத் தான் இங்கே சமர்ப்பிக்கலாம்.”